

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7324 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 - No

MANGAJI THAKORE

Versus

GUJARAT NARMADA AUTO LTD

Appearance:

MR TR MISHRA for Petitioners

Ms Neena Agrawal for MR KS NANAVATI for Respondent

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 07/07/1999

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the ex-employees of Gujarat Narmada Auto Ltd., five in number, had challenged the order dated 29.6.1990 suspending the petitioners from service pending an inquiry.

2. During pendency of the petition, the respondent-Company Gujarat Narmada Auto Ltd. was ordered to be wound up as per the order dated 2.8.1995 passed by the Company Court. In this view of the matter, the petitioners' prayer for reinstatement in service would

not survive and to that extent the petition has become infructuous.

3. However, the learned counsel for the petitioners states that from the date of suspension order till the date of winding up order, the petitioners were not paid even subsistence allowance.

4. On the other hand, initially at the admission stage affidavit in reply was filed on behalf of the respondent-Company contending that the respondent-Company is not a State within the meaning of Article 12 of the Constitution; hence, the petition was not maintainable.

5. In view of the above subsequent development, this Court is not required to examine the merits of the order of suspension or the preliminary contention raised on behalf of the respondent about maintainability of the petition.

6. The petition is disposed of as infructuous without prejudice to the rights of the petitioner to claim arrears of subsistence allowance before an appropriate forum.

7. Subject to the aforesaid observations and liberty, the petition is disposed of as infructuous.

Sd/-

July 7, 1999 (M.S. Shah, J.)

sundar/-